



City of Austin

Founded by Congress, Republic of Texas, 1839

JD # 16873
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July 30, 1992

RQ-433

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Honorable Dan Morales
Texas Attorney General
Attention: Opinion Committee, Open Government
Section
Price Daniel's Building, 7th floor
209 W. 14th Street
Austin, Texas 78711

RE: Open Records Request

Dear General Morales:

Pursuant to Section 7 of the Open Records Act, Article 6252-17a, V.T.C.S., the City of Austin hereby requests a decision as to whether portions of bid documents submitted to the City of Austin may be withheld from disclosure under Section 3(a)(1) and 3(a)(10) of the Open Records Act. A copy of a letter from Ranger Security requesting copies of the bid documents is attached as Exhibit A (the "Request").

The documents that are the subject of the Request were submitted to the City in response to Invitation for Bid No. 920834-3RW for security services. The City of Austin has already awarded a contract based on the submission of the bids that are requested.

The invitation for bids contained a copy of the City of Austin's Standard Terms and Conditions, which contain the following language:

RIGHTS TO BID, PROPOSAL AND CONTRACTUAL MATERIAL. All reports, charts, schedules, or other appended documentation to any bid, content of basic bid, or contracts and any responses, inquiries, correspondence, and related material submitted by Contractor shall become property of the City upon receipt.

ACCOMPANIED BY ENCLOSURES -
FILED SEPARATELY



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General Morales
July 30, 1992

Page 2

A copy of the City's Standard Terms and Conditions is attached as Exhibit B.

Both The Wackenhut Corporation and Pinkerton Security & Investigation Services object to the City of Austin's disclosure to anyone of any portion of their bid response, all of which they consider proprietary or confidential. The City of Austin has contacted the bidders by copy of this letter and requests that they submit their arguments for nondisclosure directly to the Attorney General. The City of Austin urges the Attorney General to allow the City to withhold the confidential or proprietary information.

The City of Austin will continue to need to issue invitations for bids on a regular basis. If the City is required to disclose information that its bidders or contractors consider proprietary or confidential, the City's ability to obtain adequate detailed information about future bidders will be impaired and the City's ability to hire a competent contractor will suffer. Further, the number of companies willing to submit bids to and contract with the City would be lessened with the result that the City will have an inadequate number of contractors from which to meet its needs. Such an inadequate number of bidders could result in the City being unable to meet its needs, or if those needs can be met, could result in the City's having to do so at a higher cost and with less qualified contractors.

For these reasons, the City of Austin requests a decision as to whether the bid responses submitted with this letter as Exhibits C and D may be withheld.



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General Morales
July 30, 1992

Page 3

Please contact me if you have any questions or if you need any further information.

Sincerely,

Charles E. Griffith, III

Charles E. Griffith, III
Deputy City Attorney

CEG/mro

Enclosures

xc: (w/o enclosures)
Bob Taylor, Ranger Security
Ben A. Delay, Branch Manager,
The Wackenhut Corporation
Frank Mendez, District Manager,
Pinkerton Security & Investigation Services
Diana L. Granger, City Attorney
Cynthia J. Hill, Supervising Attorney
Beverly J. Landers, Acting Deputy City Attorney
Marsha R. Ozer, Assistant City Attorney